

What To Expect From Your Workers' Compensation Mediation



— LAW OFFICES OF —
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Welcome



Thank you for considering me to assist you as a mediator in the resolution of your case. I have a proven track record of settling hundreds of cases over the past 15 years—many that the parties thought would be impossible to resolve. After a successful career as a litigation attorney, I now devote 100% of my professional time to helping parties settle difficult workers' compensation and other injury and employment-related cases.

A mediator only stays in business if he gets the job done and attorneys use his or her services in other cases. Attorneys and litigants come to me in challenging cases because they know that working together we have the best chance of achieving a disposition that best meets the needs of the parties without the hazards, delays and cost of ongoing litigation.

If properly prepared for and used mediation works better than any other dispute resolution mechanism--primarily because the parties themselves are deciding how they want to resolve the case. The result is a high degree of satisfaction by all participants.

As the commercial for Alka Seltzer used to say, "Try it; you'll like it." That goes for mediation as well. Once you have closed one of those impossible cases, I expect you will be back again on another one.

Yours sincerely,

Robert G. Heywood

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For workers' compensation cases that have been open for two or more years, that can't seem to move to closure, that require extensive trial time, present complex legal, factual or medical issues, or simply seem "impossible", mediation is the optimal way to achieve resolution.

Would you be willing to devote a day to a case if you knew that you had a 90% chance of settling it? That is what happens in most mediated cases, so if your answer is "yes", you

have a case appropriate for mediation. You are only a few steps away from being able to schedule a mediation with Robert Heywood, one of the most successful workers' compensation and injury case mediators.

What is Mediation?

Simply stated, mediation is a negotiating session between litigants and their representatives conducted with the assistance of a neutral facilitator—the mediator—for the purpose of achieving resolution of the dispute. It is typically voluntary, and all negotiations are confidential. Mediation allows the parties to participate in how their case will be resolved, while litigation involves turning the decision making process over to another.

A mediation session provides adequate time to narrow issues, understand positions and interests and develop options for resolution. The mediator will assist the parties not only in crafting the resolution, but also in developing the psychological framework for readiness to move the case to closure. This is often achieved simply by listening, in order to provide parties with a day-in-court experience, thus creating the environment to wrestle with the substantive aspects of the dispute.

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Mediation differs from arbitration primarily in that the mediator does not decide the case as would an arbitrator. In order to maintain effectiveness, the mediator is not and should not become an advocate, though a skilled mediator may assist parties and counsel with a “reality check”, if necessary.



Advantages of Mediation

In addition to the items listed above, mediation provides:

- Rapid resolution with very high degree of satisfaction for all parties
- Substantial costs savings by earlier resolution of case with financial benefits to all participants
- Guidance of the process by neutral facilitator
- Creative settlement options possible and encouraged
- Undivided attention of mediator
- Ease in scheduling
- Ability to address client control issues
- A confidential setting so parties are free to express sentiments that they could not express in litigation.
- An opportunity for parties to move on with their lives unencumbered by the workers' compensation system

What Happens at the Mediation

Typically, the mediation begins with a *joint session* involving all participants to review the process and ground rules and to identify areas of agreement and issues. Then the mediator will meet with different groups in *caucuses* to better identify issues, to review the positions of the parties and to begin to develop options. This is an optimal time to test theories, explore models for settlement and confront any extrinsic or emotional issues that may be barriers to resolution.

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Through this process a resolution is reached by the parties that more likely meets their needs rather than a resolution imposed upon them by the judicial system. This is the reason mediated cases have such a high degree of satisfaction.

The goal is to reach an agreement that addresses the interests of all parties on all issues. The mediator will summarize all terms of the settlement but the attorneys for the litigants will draft the agreement in that the mediator is not providing legal services. The settlement agreement should be *specific* as to exactly who is doing what; the terms must be *realistically achievable*], and the settlement agreement must be *timed* so everyone knows when things are going to happen.



If settlement is not achieved, Robert will assist the parties in developing a plan of action for the next steps in moving the case toward resolution exploring the consequences of not having a negotiated agreement. So as to not waste the time spent, the parties will use the mediation as a facilitated case management conference. In many cases Robert will follow-up with the parties to continue the process of achieving resolution.

Are You Ready to Mediate?

If you are ready to resolve your case, Robert Heywood can help you achieve a settlement with a proven record of client satisfaction. Robert's practice is devoted exclusively to mediation and arbitration. He is a proven and respected mediator and sought-after educator. He concludes most cases in a single day with a 90%+ success rate.

Contact Robert Heywood at 510-465-4850 or at robert@rheywoodlaw.com to schedule a mediation.

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